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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 17th December, 2004:—

I

BILL NO. XXIII OF 2004

A Bill further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2004.

Short title and commencement.

(2) It shall come into force at once.

2. In Section 8A of the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act) for sub-section (1A), the following sub-section shall be substituted namely:—

Amendment of Section 8A.

“(1A) With effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2004, there shall be paid for life to the spouse, if any, or dependent of any Member of Parliament serving or retired, a pension at the rate of fifty per cent of the pension which such a member was in receipt of or would have been entitled to if such a member was serving and to which he would have been entitled if he would have retired on the date of his death, from the date following the date of his death”.

3. In section 8B of the Principal Act for the words "one lakh rupees", the words "four lakh rupees" shall be substituted.

Amendment of Section 8B.

STATEMENT OF OBJECTS AND REASONS

In spite a number of amendments made in the Salary, Allowances and Pension of members of Parliament Act, 1954, there is a serious anomaly in the matter of provision of family pension. The present position is that the spouse, if any or dependent of any member, who dies during his term of office as such member, is entitled to pension only for a period of five years from the date of his death. This position to say the least is arbitrary and against the spirit and concept of family pension as is commonly understood. The family pension should be on the lines on which that is admissible in case of Government Employees.

The provision for conveyance advance under Section 8B of the Act is limited to one lakh rupees only, which is highly inadequate in view of the present state of prices of cars, etc. The limit should be raised to four lakh rupees so as to enable a Member of Parliament to purchase a car commensurate with his status.

Hence this Bill.

LALIT SURI.

FINANCIAL MEMORANDUM

The Bill seeks to widen the scope of family pension on the death of members of Parliament whether surviving or retired. It also seeks to enhance the advance for purchase of conveyance from rupees one lakh to four lakhs.

It would involve recurring expenditure from the Consolidated Fund of India, the quantum of which is difficult to estimate.

II

BILL NO. XXV OF 2004

A Bill to provide for guaranteed employment by the State to all adult Citizens of the Country seeking employment so as to eradicate unemployment from the Country and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Guaranteed Employment Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Short title,
extent and
commence-
ment.

Definitions.

(a) "prescribed" means prescribed by rules made under this Act;

(b) "state" includes the Central and the State Governments and all bodies and authorities including local self-government bodies under the Central or the State Governments as the case may be.

Guaranteed
employment
opportunities
and payment
of
unemployment
allowance.

3. (1) Notwithstanding anything contained in any other law for the time being in force it shall be obligatory on the part of the State to provide employment to every adult citizen seeking employment suited to his age, qualification and strength.

(2) till such time employment is provided to a citizen under sub-section (1), he shall be entitled to an unemployment allowance at such rate and on such terms and conditions, as may be prescribed.

Social
Security
Scheme.

4. For the purposes of this Act, the Central Government shall, as soon as may be but not later than six months of the Commencement of this Act, formulate and implement Social Security Scheme so as to provide for a special fund for the purposes in such manner as may be prescribed.

Miscellaneous
provisions.

5. Notwithstanding anything contained in any other law for the time being in force,—

(a) Every citizen who has secured a job shall not involve himself in any financial or gainful activity other than his employment;

(b) No application for any other employment from a person who is already in service shall be entertained by or forwarded to any other authority without that person having resigned from previous service whether it be a Government, Public Undertaking or private job or service, as the case may be.

Facilities for
self-
employment.
Penalty.

6. The State shall provide cheap credit subsidy and other requisite facilities to the citizens including retired ones seeking self-employment.

7. Whoever violates the provisions of section 5 shall be punished with imprisonment for a term, which may extend to one year or with fine, which may extend to fifty thousand rupees or with both.

Power to
make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The problem of unemployment amongst the youth of the nation has assumed menacing proportions and has become a major and explosive problem of the nation. Employment opportunities in the public sector as well as in the private sector are receding very fast. The Central and State Governments have virtually stopped new recruitments. So is the case in Public Sector Undertakings including Banking sector where instead of providing jobs, Voluntary Retirement Schemes are being implemented thus making Government jobs very very scarce. Employment opportunities are becoming scarce in Private Sector also due to mechanisation and computerisation. Frequent Occurrence of natural calamities like drought and floods and unremunerative prices of agricultural produce has reduced work in agricultural sector. Unable to face the onslaught of tough competition from multinational companies the SSI sector is at the verge of collapse further decreasing employment opportunities. This has upset the youth of the Country making them frustrated and dejected. They are turning towards crime for subsistence and being lured by anti-social and anti-national elements. This is a dangerous signal for the nation which is also facing brain-drain from the country due to increasing unemployment in the Country.

Now, the time has come to make concerted efforts by the State to assure guaranteed employment to the youth of the nation and to provide relief to those who are unable to secure jobs. For this Social Security Scheme should be framed and implemented by the Central Government.

Hence this Bill.

R. S. GAVAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the guaranteed employment opportunities to be provided to the youth by the State and payment of unemployment allowance till employment is provided. Clause 4 provides for the Social Security Scheme. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is difficult to estimate the exact expenditure at this stage. However, it is likely to involve an annual recurring expenditure of about rupees two thousand crores from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees fifty crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules of carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

III

BILL NO. XXXVII OF 2004

A Bill to amend the Delimitation Act, 2002.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delimitation (Amendment) Act, 2004.

(2) It shall be deemed to have come into force with effect from the 3rd day of June, 2002.

Short title
and
commencement

Amendment
of section 2
of Act 33 of
2002.

2. In clause (f) of section 2 of the Delimitation Act, 2002, for the words "the State of Jammu and Kashmir", the words "the States of Jammu and Kashmir and Nagaland" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Parliament enacted the Delimitation Act, 2002 on the 3rd June, 2002 with a view to readjusting the division of each State into territorial constituencies for the purpose of elections to Lok Sabha and State Legislative Assemblies on the basis of the census figures as ascertained at the census held in the year 1991. The said Act, however, maintains status quo on the number of constituencies in a State allocated for the Lok Sabha and the Legislative Assembly of that State.

2. The Act exempts the State of Jammu and Kashmir from its purview in view of article 370 of the Constitution and the separate Constitution of Jammu and Kashmir. Nagaland also enjoys a special status under the Constitution in view of article 371-A. The Ninth Nagaland Legislative Assembly, in a Resolution adopted on the 19th March, 1999 appealed to the Union Government to increase the seats in the State Legislative Assembly from 60 to 80, the seats in Lok Sabha from 1 to 3 and the seats in Rajya Sabha from 1 to 2. On the 18th December, 2003, the Tenth Nagaland Legislative Assembly adopted another Resolution urging upon the Union Government to exempt Nagaland from being covered under any delimitation exercise and reiterated its appeal for increasing the number of seats in the Assembly and Lok Sabha allocated from the State, as aforesaid. The Delimitation exercise in the state will affect tribal cohesion, alter customary territorial boundaries and intercede with the rights to conservation of traditional habitats of 16 major tribes and double the number of sub-tribes spread into diverse dialectical groups. The delimitation exercise as contemplated by the Delimitation Act, 2002 and as reflected by the working paper of the Delimitation Commission, is bound to upset the social, cultural and ethnic poise amongst the various tribes in Nagaland, thus opening another area of conflict in an otherwise peaceful Naga society especially when the peace talks for resolving the Naga Political Issue are at crucial stage.

3. This Bill therefore proposes to exempt Nagaland from the purview of the Delimitation Act, 2002 thereby to secure peace and tribal coexistence in the State.

Hence this Bill.

T. R. ZELIANG.

IV

BILL NO. L OF 2004

A Bill to provide for compulsory voting by the voters in an election called for by the Election Commission and to prohibit pre-poll survey and exit poll by various agencies and on their printing, publication and telecasting through the print and electronic media so as to remove the confusion of the electorate and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Compulsory Voting and prohibition of Pre-poll survey and Exit Poll of Elections Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires the words and expressions used but not defined in this Act but defined in the Representation of the People Act, 1951 shall have the meanings respectively assigned to them in that Act. 43 of 1951.

43 of 1951.

3. Notwithstanding anything contained in the Representation of the People Act, 1951 or any other law for the time being in force, it shall be compulsory for every voter whose name figures in the electoral roll to vote in an election when called for by the Election Commission in an election to Lok Sabha or Legislative Assembly of a State, as the case may be.

Compulsory voting by voters in an election.

4. Notwithstanding the provisions contained in section 3, a voter may be exempted from compulsorily exercising his right to vote if,—

Exemption from voting in certain cases.

(a) he is physically incapable of voting due to illness or physical infirmity or unable to move and produces a medical certificate from a registered practitioner of medicine certifying such incapacity of the voter; or

(b) the Election Commission or any other authority empowered by the Election Commission, on receipt of a request either before or after the poll from the voter, is satisfied that there are genuine and *bona fide* grounds for such exemption.

5. (1) The conducting of pre-poll survey, exit-poll, assessment of voters views and telecasting through the electronic media or publishing or printing through the print media of such survey, exit poll or voters views during any election to Lok Sabha or Legislative Assembly of a State in any part of the country from the date of notification issued for such elections till the election process is over, is hereby prohibited.

Prohibition on pre-poll survey, exit poll.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

6. Whoever,—

Penalty.

(a) contravenes the provisions of section 3 shall be liable to a fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees or imprisonment for one week or with both.

(b) contravenes the provisions of section 5 shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and also with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and the registration or licence given to such organisation or agency under any law for the time being in force, shall be revoked.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

STATEMENT OF OBJECTS AND REASONS

Ours is the largest democracy in the world—having the largest number of electorate. But analysis of general elections to Lok Sabha and those of Legislative Assemblies of the States reveals a very sad feature of our democracy when we find that the voters' turn out in the elections is decreasing very fast. The average number of votes polled are below 50 per cent. It has been noticed that the voters instead of voting at polling stations prefer to go for picnic on the Election Day. Several voters deliberately refuse to exercise their franchise. In many villages or areas people boycott polls for one reason or the other. As such the fate of our democratic institutions is decided by a minority of voters and there is no material change in this trend. Hence, time is ripe to ensure that all citizens do exercise their sovereign right to choose their representatives so that elections reflect the will of the entire electorate and not that of a part of it. Voting has therefore, to be made compulsory to strengthen our democracy.

With the commencement of the election process to the Lok Sabha or the Legislative Assemblies there is a scramble in every Television Channel, Newspaper and Magazine to publish and telecast pre-poll surveys of elections followed by results of exit polls conducted by some organizations. Since elections are held in several phases, voters who have to cast their votes in subsequent phases get confused by such surveys and exit polls. Many a time such surveys are sponsored to confuse the voters so that the rival political parties suffer. It is a different story that most of the results of such surveys, exit polls, etc. prove to be wrong but they do succeed in creating confusion. As a result, many voters do not go for voting. So, it has become absolutely necessary to put a blanket ban on such election surveys and exit polls.

Hence this Bill.

V. NARAYANASAMY.

V

BILL NO. XLIX OF 2004

A Bill to provide for the funding of elections to Lok Sabha and Legislative Assemblies of the States by the Central Government in order to remove the corrupt practices and money and muscle power in such elections and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the State Funding of Elections to Lok Sabha and Legislative Assemblies Act, 2004.

Short title,
extent and
commencement.

(2) It extends to the whole of India

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise require:

(a) "prescribed" means prescribed by rules made under this Act;

(b) words and expressions used but not defined in this Act and defined in the Representation of the People Act, 1951 shall have the meanings respectively assigned to them in that Act.

State Funding
of elections.

3. (1) Notwithstanding anything contained in any Election law for the time being in force, the election to Lok Sabha and Legislative Assembly shall be funded by the State in such manner, as may be prescribed.

(2) For the purposes of sub-section (1), Parliament shall, by due appropriation made by law in this behalf, provide funds as it may deem necessary from time to time.

(3) Funding referred to in sub-section (1) shall be extended to recognised Political parties and official candidates put up by such parties for such purposes and in such manner as may be prescribed.

Power to make
rules.

4. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Ours is the largest democracy in the world and it has proved its worthiness for more than five decades with very strong roots, but unfortunately the electioneering in our country has been vitiated in many ways such as influence, money and muscle power, criminalisation, bogus voting, booth capturing and so on and so forth. The most disturbing factor is the generation of black money in big way for electioneering which leads to large scale corruption in polity and administration. The political parties and their members need huge sums of money for contesting elections. Though existing Election Laws put a ceiling on election expenses but the parties have to pump the money in a big way in the elections in support of their candidates. For this, the Parties and leaders turn to various sources for collection of funds. As a result the credibility of Political parties and politicians has considerably eroded in the eyes of the people. This could be checked if there is state funding of election and this would also cleanse the polity.

Hence this Bill.

V. NARAYANASAMY.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the State funding of elections. The Bill if enacted will involve expenditure from the Consolidated Fund of India, but it is difficult to estimate the precise financial implications at this stage. However, the process in the beginning may involve rupees one thousand crores per annum as recurring expenditure.

A non recurring expenditure of rupees five hundred crores may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL No. XLVIII OF 2004

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2004.

(2) It shall come into force at once.

2. In the Representation of the People Act, 1951, in sub section (5) of section 29A, the word "socialism" shall be omitted.

Short title,
and com-
mencement.

Amendment
of section
29A of Act
43 of 1951.

STATEMENT OF OBJECTS AND REASONS

Section 29A (5) of the Representation of the People Act 1951 compels an association or a political party to bear allegiance to the principle of socialism as a pre-condition to it applying for registration as political party. It has the effect of hindering and inhibiting the formation of a political party with full advantage of registration and its functioning in the political arena of the country unless it conforms to a certain point of view of socialism. Such a proposition is not even saved by fundamental rights under *article 19* of the Constitution, which guarantees freedom to form association and expression. It makes little sense in this era of market oriented economies to deny non-socialists the possibilities of organising themselves as a political party in order to be able to contest elections.

Socialism part of section 29 A (5) is also discriminatory since an individual without affiliation to any political party can contest election without bearing any allegiance to the principles of socialism. But it prevents an association of such individuals from doing so as a registered political party unless it bears allegiance to the said principle. Under the scheme of the Constitution, the right of a non-socialist citizen to hold his personal views and be entitled to all the privileges enjoyed by the socialist fellow citizens cannot be denied. His access to legislative body as an individual and as a party cannot be hindered by denying him privileges of registered as political party. Moreover if the faith and allegiance to the Constitution is there do we need anything more to do?

Therefore, section 29 A (5) may be amended to remove the anomaly.

Hence this Bill.

SHARAD ANANTRAO JOSHI

YOGENDRA NARAIN,
Secretary-General.